

§ 779.3

29 CFR Ch. V (7-1-06 Edition)

§ 779.3 Pay standards for employees subject to previous coverage of the Act.

Before the 1966 amendments, the Act applied, as it still applies, to employees individually engaged in interstate or foreign commerce or in the production of goods for such commerce, and to employees in certain enterprises, including enterprises in which retail sales of goods or services are made. The tests by which coverage based on the employee's individual activities is determined were not changed by the 1966 amendments and are described in subpart B of this part. An employee in an enterprise whose activities satisfy the conditions prescribed in the law prior to the 1966 amendments (discussed in subpart C) is covered under the present Act. Any employee whose employment satisfies the tests by which individual or enterprise coverage is determined under the Act prior to the 1966 amendments and who would not have come within some exemption in the law prior to the amendments is subject to the monetary provisions prescribed in the law for previously covered employees and is entitled to a minimum wage of at least \$1.40 an hour beginning February 1, 1967, and not less than \$1.60 an hour beginning February 1, 1968, unless expressly exempted by some provision of the amended Act. (In each instance where there is an increase in the minimum wage, the new minimum wage rate becomes effective 12:01 a.m., on the date indicated.) Such an employee is also entitled to overtime pay for hours worked in excess of 40 in any workweek at a rate not less than one and one-half times his regular rate of pay. (Minimum wage rates in Puerto Rico, the Virgin Islands, and American Samoa are governed by special provisions of the Act. Information on these rates is available at any office of the Wage and Hour Division.)

§ 779.4 Pay standards for newly covered employment.

There are many employees of retailers as well as other employees who would not be subject to the minimum wage or overtime pay provisions of the Act as it was prior to the 1966 amendments, either because of their individual activities or because of the ac-

tivities of the enterprise in which they are employed, but who are brought under the minimum wage or overtime provisions, or both, for the first time by the changed enterprise coverage provisions or changes in exemptions, or both, which were enacted as part of the amendments and made effective February 1, 1967. The following pay standards apply to this newly covered employment, unless a specific exemption has been retained or provided in the amendments; such employees must be paid not less than the minimum wages for hours worked and not less than one and one-half times their regular rates of pay for overtime, as shown in the following schedule:

Minimum wage	Beginning
\$1.00 an hour	February 1, 1967.
\$1.15 an hour	February 1, 1968.
\$1.30 an hour	February 1, 1969.
\$1.45 an hour	February 1, 1970.
\$1.60 an hour	February 1, 1971 and thereafter.

In each instance where there is an increase in the minimum wage, the new minimum wage rate becomes effective 12:01 a.m., on the date indicated. (Minimum wage rates for newly covered employees in Puerto Rico, the Virgin Islands, and American Samoa are set by wage order under special industry committee procedures. Information on these rates and their effective dates may be obtained at any office of the Wage and Hour Division.)

Overtime pay	Beginning
After 44 hours in a workweek	Feb. 1, 1967.
After 42 hours in a workweek	Feb. 1, 1968.
After 40 hours in a workweek and thereafter.	Feb. 1, 1969.

In each instance where a new overtime pay standard is applicable, it shall be effective as to any workweek beginning on or after the date indicated.

§ 779.5 Matters discussed in this part.

This part discusses generally the provisions of the Act which govern its application to employers and employees in enterprises and establishments that make retail sales of goods or services. It discusses in some detail those provisions of the Act which refer specifically to such employers and employees and such enterprises or establishments.

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The criteria for determining the employments in which these employers and employees may be subject to the law are discussed in subparts B and C of this part and the criteria for exclusion from its provisions under specific exemptions are discussed in subpart D of this part. Other provisions of special interest to retailers and their employees are discussed in subparts E and F of this part.

§ 779.6 Matters discussed in other interpretative bulletins.

Bulletins having general application to others subject to the law as well as to retailers and their employees have been issued on a number of subjects of general interest. These will be found in other parts of this chapter of the Code of Federal Regulations. Reference should be made to them for guidance on matters which they discuss in detail and which this part does not undertake to do. They include part 776 of this chapter, discussing general coverage, including the employer-employee relationship under the Act; part 531 of this chapter, discussing methods of payment of wages; part 778 of this chapter, discussing computation and payment of overtime compensation; part 785 of this chapter, discussing the calculation of hours worked; and part 800 of this chapter, discussing equal pay for equal work.

INTERPRETATIONS OF THE LAW

§ 779.7 Significance of official interpretations.

The regulations in this part contain the official interpretations of the Department of Labor with respect to the application under described circumstances of the provisions of law which they discuss. These interpretations indicate the construction of the law which the Secretary of Labor and the Administrator believe to be correct and which will guide them in the performance of their duties under the Act unless and until they are otherwise directed by authoritative decisions of the courts or conclude, upon reexamination of an interpretation, that it is incorrect.

§ 779.8 Basic support for interpretations.

The ultimate decisions on interpretations of the Act are made by the courts (*Mitchell v. Zachry*, 362 U.S. 310; *Kirschbaum v. Walling*, 316 U.S. 517). Court decisions supporting interpretations contained in this bulletin are cited where it is believed they may be helpful. On matters which have not been determined by the courts, it is necessary for the Secretary of Labor and the Administrator to reach conclusions as to the meaning and the application of provisions of the law in order to carry out their responsibilities of administration and enforcement (*Skidmore v. Swift*, 323 U.S. 134). In order that these positions may be made known to persons who may be affected by them, official interpretations are issued by the Administrator on the advice of the Solicitor of Labor, as authorized by the Secretary (Reorg. Pl. 6 of 1950, 64 Stat. 1263; Gen. Ord. 45A, May 24, 1950; 15 FR 3290). As included in the regulations in this part, these interpretations are believed to express the intent of the law as reflected in its provisions as constructed by the courts and evidenced by its legislative history. References to pertinent legislative history are made in this part where it appears that they will contribute to a better understanding of the interpretations.

§ 779.9 Reliance on interpretations.

The interpretations of the law contained in this part are official interpretations which may be relied upon as provided in section 10 of the Portal-to-Portal Act of 1947. In addition, the Supreme Court has recognized that such interpretations of the Act "provide a practical guide to employers and employees as to how the office representing the public interest in its enforcement will seek to apply it" and "constitute a body of experience and informed judgment to which courts and litigants may properly resort for guidance." Further, as stated by the Court: "Good administration of the Act and good judicial administration alike require that the standards of public enforcement and those for determining private rights shall be at variance only where justified by very good reasons."